IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4063 OF 2005

Sadanand Anandan Nair ...Applicant
vs.
The State of Maharashtra ...Respondents

Rajeev Sawant & Associates for the Applicant
Ms M.M.Deshmukh, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JULY 1,2005.

P.C.:

1. Heard Advocate for the Applicant and the learned A.P.P. for State. An offence has been registered against the Applicant on 18th April 2005 vide C.R.No.66 of 2005 at R.C.F. Police Station for the offences punishable under Section 420 of the Indian Penal Code. The case of the complainant in short appears to be that the Applicant had taken certain house maintenance contracts in the year 2002-2003. The case of the complainant is that the Applicant had assured him to give half of the profit in the said contract and on that assurance the complainant had advanced a sum of Rs.14,06,170/- to the Applicant for purchase of construction material and for paying wages of the workers. The case of the complainant is that the Applicant had issued in his favour nine cheques in the total sum of Rs.11 lakhs drawn on Veershaiva Co-operative Bank Ltd. and it was agreed that as and when the Applicant will give intimation, the complainant will be entitled to encash the cheques. The grievance of the complainant is that the Applicant refused to refund the amount.

2. It appears that on 28th May 2005 a notice has been issued

by the complainant to the Applicant under Section 138 of Negotiable Instruments Act,1881 on the basis of dishonour of eight cheques which are referred to in the complaint. It is pertinent to note that in the said notice the dates of all the cheques are mentioned as 6th May 2005. It is to be noted here that the Application for anticipatory bail filed by the Applicant in the Sessions Court was filed prior to that date. The Applicant has replied to the said notice and the said reply is on record. The application for anticipatory bail made by the Applicant was rejected by the learned Sessions Judge strangely on the ground that the investigating agency requires the custody of the Applicant to recover the amount.

3. Considering the allegations made in the complaint and in the subsequent notice issued under Section 138 of Negotiable Instruments Act, it is obvious that this is not a case where custodial interrogation of the Applicant is required. It cannot be ignored that during the pendency of the Application for anticipatory bail in the Sessions Court cheques in the custody of the complainant have been sought to be encashed.

4. Hence, I pass the following order :

i) In the event of the arrest of the Applicant in connection with C.R.No.66 of 2005 registered with R.C.F.Police Station, the Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.25,000/- (Rupees twenty five thousand only) with one or two sureties in the like amount.

ii) The Bail is granted subject to the condition that the Applicant will attend the concerned Police Station on every Monday and Thursday between 5.00 p.m. to 7.00 p.m. till the charge sheet is filed.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/investigating agency. The Applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the Applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate Court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE